

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 14-81V

Filed: October 11, 2016

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ZACHARY TERENCE

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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UNPUBLISHED

Special Master Gowen

Attorneys' Fees and Costs

Anne C. Toale, Maglio Christopher and Toale, Sarasota, FL, for petitioner.
Gordon E. Shemin, United States Department of Justice, Washington, DC, for respondent.

DECISION ON ATTORNEYS' FEES AND COSTS¹

On January 29, 2014, Michael Terenzio filed a petition on behalf of Zachary Terenzio² ("petitioner") pursuant to the National Vaccine Injury Compensation Program.³ 42 U.S.C. §§ 300aa-1 to 34 (2012). Petitioner alleged that he developed acute disseminated encephalomyelitis ("ADEM") and multiple sclerosis ("MS") as a result of receiving a meningococcal vaccine on

¹ Because this decision contains a reasoned explanation for the undersigned's action in this case, the undersigned intends to post this ruling on the website of the United States Court of Federal Claims, in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction "of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b).

² Petitioner reached the age of majority on June 10, 2016, and the caption of the case was amended accordingly.

³ The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-1 to -34 (2012) (Vaccine Act or the Act). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

August 28, 2012, and that he suffered residual effects of these injuries for more than six months. Stipulation at ¶¶ 2, 4. On July 11, 2016, the parties filed a stipulation in which they state that a decision should be entered awarding compensation. A decision awarding petitioner compensation pursuant to the terms of the parties' stipulation was issued August 4, 2016.

On October 11, 2016, petitioner filed a motion requesting \$47,877.90 in attorneys' fees and \$22,087.54 in attorneys' costs, for a total of \$69,965.44. Pet. Mot. at 1-2. In accordance with General Order #9, petitioner stated in writing that he did not incur any costs related to this matter. See Pet. Mot. at 1; Ex. 88 at 1. The motion states that respondent does not object to these fees and costs being awarded to petitioner, but notes that respondent's "lack of objection should not be construed as an admission, concession, or waiver as to any of the matters raised by petitioner's request... including, but not limited to the hourly rates requested, the number of hours requested, and other litigation-related costs." Pet. Mot. at 1-2.

The Vaccine Act permits an award of reasonable attorneys' fees and costs under 42 U.S.C. section 300aa-15(e). Based on the reasonableness of petitioner's request and the lack of objection by respondent, the undersigned **GRANTS** the request for approval and payment of attorneys' fees and costs, pursuant to 42 U.S.C. § 300 aa-15(e).

An award should be made as follows:

- (1) **A lump sum of \$69,965.44, payable jointly to petitioner and petitioner's counsel, Anne C. Toale, of Maglio Christopher & Toale, PA, for attorneys' fees and costs.**

In the absence of a motion for review filed pursuant to RCFC Appendix B, the Clerk of the Court **SHALL ENTER JUDGMENT** in accordance herewith.⁴

IT IS SO ORDERED.

s/ Thomas L. Gowen
Thomas L. Gowen
Special Master

⁴ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.